

Application No. 10/718,276 - Art Unit 1771
AMENDMENT AND TRANSMITTAL OF
TERMINAL DISCLAIMER
Page 4

REMARKS

By the preceding amendments, the specification has been amended so as to overcome the objections made in paragraphs 1 through 5 of the Office Action noted above.

You are requested to withdraw the rejection of the claims under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,678,895 B1 to Grilliot *et al.* and further in view of United States Patent No. 5,274,849 to Grilliot *et al.*, in paragraphs 6 and 7 of the Office Action noted above.

The undersigned attorney submits that United States Patent No. 6,678,895 B1 qualifies as prior art only under 35 U.S.C. § 102(e) but under 35 U.S.C. § 103(c)(1) shall not preclude patentability, because the subject matter of United States Patent No. 6,678,895 B1 and the claimed invention of the instant application were, at the time the claimed invention of the instant application was made, owned by or subject to an obligation of assignment to the same person, namely, to Morning Pride Manufacturing, L.L.C. of Dayton, Ohio.

Re United States Patent No. 6,678,895 B1, an assignment from the named inventors to Morning Pride Manufacturing, L.L.C. of Dayton, Ohio, was executed by the named inventors concurrently with the declaration on May 20, 2003, and was recorded as of the filing date of May 22, 2003, on Reel 014111, Frame 0943. Re the instant application, an assignment from the named inventors to Morning Pride Manufacturing, L.L.C. of Dayton, Ohio, was executed by the named inventors concurrently with the declaration on November 19, 2003, and was recorded as of the filing date of November 20, 2003, on Reel 014740, Frame 0809. The primary examiner is requested to telephone the undersigned attorney if further evidence is required for the purposes of 35 U.S.C. § 103(c)(1).

A Terminal Disclaimer referring to United States Patent No. 6,678,895 B1 is transmitted herewith. The undersigned attorney submits that the Terminal Disclaimer overcomes the "double patenting" rejection in paragraphs 8 and 9 of the Office Action noted above.

Application No. 10/718,276 - Art Unit 1771
AMENDMENT AND TRANSMITTAL OF
TERMINAL DISCLAIMER

Page 5

The undersigned attorney submits that all claims should be now allowable and solicits their allowance. The primary examiner is requested to telephone the undersigned attorney if any issues remain unresolved.

Respectfully submitted,

By Allen J. Hoover
Allen J. Hoover
Reg. No. 24,103

Wood, Phillips, Katz, Clark & Mortimer
Citicorp Center, Suite 3800
500 West Madison Street
Chicago, Illinois 60661-2511
Telephone (312) 876-1800
Facsimile (312) 876-2020
May 16, 2005